Lyon County Kansas April 17, 2013 1:00-3:00PM

Attendance:

Judge David Ricke- Butler County District Court

Aaron Waldorf- Butler County SO

Lt. Al Deathe- Douglas County SO

Chris Reece- JJA

Sheila Wacker- Johnson County SO

Jessica Dultmeier- KBI

Shelia Sawyer-Tyler- KBI

Nancy Burghart- KS Juvenile Correctional Complex

Michelle L McMillin- Saline County SO

Tracy Spreier-Sedgwick County SO

Debra Hoffer- Shawnee County SO

Dpty. Emily Adams- Shawnee County SO

Harry Keith- Wyandotte County SO

Lt. Doug Wade-Johnson County SO

Maj. Rick Simpson-Johnson County SO

Det. Gary Barrtelman-Johnson County SO

Dpty. Thomas Delgado- Sedgwick County SO

Director Kirk Thompson-KBI

Michael Oliver- Sedgwick County SO

Jeff Cope- Lyon County SO

Jacob Welsh- Lyon County SO

Det. Dustin Carlat- Shawnee County SO

Investigator George Brown-Ford County SO

Candi Carroll-Ford County SO

Phil Tongier- KS Juvenile Correctional Complex

Amy Jackson- Lyon County SO

Darcy Wells- Lyon County SO

Cassandra Miller-Johnson County SO

Minutes of the Meeting:

- 1. The KORWG meeting was called to order by Sheila Wacker, Chair. Introductions were made by those in attendance.
- 2. It was announced that Jessica Dultmeier has been promoted to supervisor of the Registration Unit at the KBI.
- 3. KBI Director Kirk Thompson was introduced and provided those in attendance with a Proposal for Reorganization (attached).

Lyon County Kansas April 17, 2013 1:00-3:00PM

4. KORWG structure and Bi-Laws were discussed.

a. Kansas Open Meetings Act (KOMA)

Must be compliant with the KOMA, with meetings open to the public and notice of KORWG meetings provided to those requesting the same.

(Frequently Asked Questions about the KOMA, Kansas Attorney General Derek Schmidt, http://ag.ks.gov/legal-services/open-govt/koma-faq)

b. Communication

Communication to and from the various CEOs (commissioners, directors, agency/organization/department heads...) through KORWG members, must take place in order to improve the decision making process.

c. Restructuring the KORWG

- Focus on core agency members as being the actual organization
- KORWG consists of 10 core organizations
- Send out agenda; maintain a list of those persons/organizations wanting to be notified of meeting dates/times
- Formalize and post meeting minutes
- Adopt Robert's Rules of Order (see attached for summary or Robert's Rules Online http://www.rulesonline.com/rror--00.htm)
- Have formal votes
- Be transparent and professional in what we do
- It is up to the KORWG to determine whether to expand the group or not

d. Legislative Changes to the KORA

- The KORWG is an advisory group and has no legal authority to request legislative changes to the KORA. It is inappropriate to request legislative changes to the KORA directly.
- Any recommended changes to the KORA should be made by the agency/organization/association head which is seeking such changes, with that agency/organization/association member taking the lead.

e. Core Membership

Core members should consist of those persons who have agreed to represent their agency/organization, be responsible for attending KORWG meetings and communicate information obtained from such meetings to their agency/organization head.

Discussion:

a. It was recommended that more Sheriff's Departments be involved with the KORWG as core members.

Lyon County Kansas April 17, 2013 1:00-3:00PM

- b. Instead of having representatives of small, medium and large Sheriff's Departments, core members should consist of Sheriff's Departments from the various regions of Kansas.
- c. The group would like to see western Kansas become more involved and provide them the opportunity in participating in KORWG meeting via webinars or telephone conference, and it was recommended we send out a survey or otherwise determine who has access to attend meetings via a webinar or telephone conference.
- d. Western Kansas could be represented at the KORWG, through a core member who represents a small group (3-4) of western counties.
- e. Notice of upcoming meetings needs to be provided and it was recommended the notice of meetings, agenda and meeting minutes be posted on the KCJIS or KBI website.
- f. Meeting minutes should not include "he said"/"she said" comments.
- 5. House and Senate amendments to the Kansas Offender Registration Act: HB 2209 http://www.kslegislature.org/li/b2013_14/measures/hb2209/
 - a. Amend the effective dates for registration requirements to reflect when various types of offenses originally were codified.
 - b. Correct inaccurate statutory reference to the crime of aggravated incest.
 - c. Persons convicted of involuntary manslaughter while driving under the influence (DUI) are not required to register.
 - d. Definition of drug offender changed to those persons convicted on or after July 1, 2007; drug offenders convicted prior to July 1, 2007 do not have to register.
 - e. Change to correctional facility or registering law enforcement agency designee responsibilities for any offender being discharged, paroled, furloughed or released on work or school release that does not require the daily return to a correctional facility.
 - f. Registration/updated registration forms for offenders in the custody of a correctional facility shall be sent, *within three business day*, to the registering law enforcement agency where the offender in incarcerated, maintains employment or attends school *and to the KBI*.
 - g. Adopted language concerning penalties for failure to pay registration fees proposed by the Kansas Sheriffs Association, making failure to remit full payment within 15 days of registration a class A misdemeanor and a severity level 9 person felony if, within 15 days of the most recent registration, two or more full payments have not been remitted to the sheriff's office. Violations are subject to prosecution.

Lyon County Kansas April 17, 2013 1:00-3:00PM

Discussion:

a. It was noted that there appears to be a duplication of notification as the KORA requires an offender to send notice to both the KBI and Sheriff's Department. Why are both notified when the Sheriff's Departments receive a teletype with updated registration information?

It was suggested that the notification to the Sheriff's Department be removed from the registration update notification requirement since the KBI notifies them via teletype or in the alternative remove the registration requirement of notifying the KBI with updated information, since the Sheriff's Department is currently required to notify the KBI .

- b. Other Sheriff's Departments commented that they like to know the registered offenders in their county and want to have them register in person at the Sheriff's Department.
- c. It was stated that often the age of the victim is not included in the court's sentencing order. It was recommended OJA be contacted to see if the victim's age could be included in the forms generated by the Kansas Judicial Council. http://www.kansasjudicialcouncil.org/home.shtml

6. KSORT Update:

- a. NCIC part is currently being tested.
- b. KSORT interface with Offender watch remains pending; Sheriff's Departments, Department of Corrections are first to get trained and using KSORT.
- c. Will have a better idea of duplication of notice /information once KSORT is up and running.

PRIOR TO NEXT MEETING:

Please provide Jessica Dultmeier with comments/recommendations from your department/agency/organization as to the proposed restructuring of the KORWG (see attached handout) prior to our next meeting.

Next meeting date and time: June 19 @ 1:00 pm

Kansas Juvenile Correctional Complex

1430 N.W. 25th Street Topeka, KS 66618

7. Meeting was adjourned.

Lyon County Kansas April 17, 2013 1:00-3:00PM

Offender Registration Working Group By-Laws

(Created and Approved 1-22-2008)

Article I: Name of the Body

The body known as the Offender Registration Working Group shall hereinafter be referred to as ORWG.

Article II: Mission Statement

The mission of the Offender Registration Working Group is to bring interested entities and disciplines together in an open forum to address and improve the management of the Registered Offender Program in Kansas by reviewing and making recommendations related to legislation, enforcement and prosecution issues, the supervision of offenders required to register under the Kansas Offender Registration Act, and the overall improvement of administration of justice in this state.

Article III: Membership and Attendance

Core members of the ORWG have been appointed by the initial Organizing Agency, which is the Kansas Bureau of Investigation (KBI). Meetings may be attended by any person who has an interest in the Offender Registration process.

If an agency wishes to have a representative in the working group as a "core" member, then the nomination must be made to the Chairperson, voted on, and elected by the voting membership.

Article IV: Meetings

- a) Meetings will be held at least quarterly but as often as deemed necessary by the body of the ORWG.
- b) Meeting dates will be determined during the regular meeting.
- c) Locations of meetings shall be decided by the membership of the ORWG.

Article V: ORWG Chairperson and Organizing Agency

The Chairperson and Organizing Agency shall be elected by the voting membership every September. The Chairperson shall be a representative of the Organizing Agency at ORWG meetings. Duties of the Chairperson and Organizing Agency shall include but are not limited to:

- a) Organizing and leading the meetings.
- b) Providing an agenda for each meeting and ensuring that minutes are taken by a representative from the Organizing Agency.

MEETING MINUTES KANSAS OFFENDER REGISTRATION WORKING GROUP Lyon County Kansas

April 17, 2013 1:00-3:00PM

Offender Registration Working Group By-Laws

(Created and Approved 1-22-2008)

c) Publishing and distributing meeting minutes.

Article VI: Voting Members

Voting members are the "Core" of the ORWG as appointed by the ORWG. These members may vote on resolutions to be created and published under the ORWG name and amendments to the by-laws.

Article VII: ORWG Resolutions

- a) In order for a resolution to be adopted by the ORWG, a motion must be made to the chairperson by a voting member, that motion must be receive a second from a voting member and then pass with an affirmative vote by two thirds of the voting membership present.
- b) Resolutions must be included in the meeting minutes, and those minutes shall include the member making the motion and whether the resolution passes.
- c) Resolutions may be made for, but are not limited to any of the following purposes; recommended by-law changes, proposed statutory changes to be submitted under the name or ORWG, or any correspondence under the name of the ORWG.

Article VIII: Amendments and Adoptions to the By-Laws

Proposed amendments to these By-Laws must be submitted to the Chairperson in writing. They may be adopted at a regular meeting, or by electronic mail to all members, by a two thirds affirmative vote by the voting membership. Amendments take effect immediately upon adoption.

Lyon County Kansas April 17, 2013 1:00-3:00PM

Kansas Offender Registration Working Group Proposal for Reorganization

April 17, 2013

- Rename and reconstitute the organization as the Kansas Offender Registration Working Group (KORWG).
- 2. Retain the existing ORWG Mission Statement:
 - a. The mission of the Kansas Offender Registration Working Group (KORWG) is to bring interested entities and disciplines together in an open forum to address and improve the management of the Registered Offender Program in Kansas by reviewing and making recommendations related to legislation, enforcement and prosecution issues, the supervision of offenders required to register under the Kansas Offender Registration Act, and the overall improvement of the administration of justice in this state.
- 3. Update existing By-Laws to reflect changes proposed in this document.
 - a. The KORWG is an advisory body and communication forum. The KORWG does not exist as a legal entity nor does it have any legal authority.
- 4. Reconstitute the "Core" Membership of ORWG to reflect ten core organizations and thirteen core members.
 - a. Kansas Attorney General's Office (KAG) one member
 - b. Kansas Bureau of Investigation (KBI) two members
 - i. Offender Registration Unit
 - ii. Information Services Division legal staff
 - c. Kansas Sheriff's Association (KSA) three members
 - i. Large Department
 - ii. Medium Sized Department
 - iii. Small Department
 - d. Kansas Department of Corrections (KDOC) one member
 - e. Kansas Juvenile Justice Authority (KJJA) or KDOC Juvenile Division one member
 - f. Kansas Association of County and District Attorneys Association (KCDAA) one member
 - g. Kansas Board of Indigent Defense / Kansas Public Defenders one member
 - h. Kansas Office of Judicial Administration (OJA) one member (a sitting district court judge)
 - i. Community Corrections one member
 - j. DOC post release supervision one member
- 5. Core Organizations
 - a. May designate an alternate core member in the event the primary core member is unable to attend a scheduled meeting.
 - b. Have complete discretion as to their representative (core member and designee) and their length of term.

Lyon County Kansas April 17, 2013 1:00-3:00PM

6. Core members

- Will serve as subject matter experts on matters relating to the Kansas Offender Registration Act.
- b. Will be designated by the core organizations listed above.
- c. Will be charged with representing the interests of the core organizations.
- d. Will be charged with maintaining communication with the core organization regarding the activities and proposals of the KORWG.
- e. Will be subject to participation (appointment and removal) in the KORWG at the discretion of the CEO of the core organization.
- 7. Kansas Bureau of Investigation Responsibilities
 - a. Identify and appoint core agencies.
 - b. Serve as the coordinating entity / organize meetings at the direction of the Chair.
 - c. Take meeting minutes.
 - d. Send and post KORWG meeting notices, agenda's and meeting minutes, a week in advance, to all core members and to the CEO of all core organizations, at the direction of the Chair.
 - e. Assure compliance with Kansas Open Meetings Act requirements.
 - f. Retain record of any KORWG proposals and the disposition of such (minutes).
 - g. Maintain an up-to-date KORWG location on the KCJIS Website and KBI Public Website.

8. KORWG - Participation

- a. Any person / agency / agency representative with interest may attend meetings and request to be placed on the meeting notification list.
- Any attendee may participate in the discussions of the KORWG consistent with the provisions of Roberts Rules of Order and the direction of the KORWG Chairperson.

9. KORWG - Recommendations / Proposals / Operations

- a. The core membership, during the September meeting of the KORWG, shall elect a chairperson and vice chairperson for the KORWG for the following year. The chairperson shall organize and lead the meetings, set the meeting agenda and set the day and times for meetings. The vice chairperson shall serve in the capacity of the Chairperson in their absence. There shall be a term limit of two years for the chairman and vice chairman.
- b. Any proposed recommendation of the group shall be noted in the minutes and shall be voted on by a quorum of the core members. A record of the vote shall be maintained. Roberts Rules of order shall be followed.
- c. Eight of the core membership shall constitute a quorum.
- d. A proposal may be advanced for further consideration by a two-thirds vote of a quorum.
- e. If in the opinion of the chairman significant substantive disagreement exists as to a proposed recommendation, they may authorize a minority report that will be attached to the proposal.
- f. The KORWG shall not propose any legislative action or changes to existing law directly to a legislative body or individual member of either chamber.

Lyon County Kansas April 17, 2013 1:00-3:00PM

- g. The recommendations of the KORWG shall be shared in a timely fashion with the legislative liaison, legislative committee and the CEO of all core organizations.
- h. The decision to pursue legislative action recommended by the KORWG will be made jointly by the leadership of the core organizations after fully vetting any such proposal with the remainder of the group. Pursuit of legislative action shall then fall to one of the core organizations.
- It is expected that core organizations/core members may on occasion have opposing views on certain matters related to the act. The KORWG and this process are meant to facilitate discussion and seek consensus on those matters where consensus is possible. The KORWG does not assume any further responsibility or authority.
- j. Nothing in this document is meant to restrict any core member/core organization from unilaterally pursuing legislative action that they believe is in the best interest of their respective organization or entity.

Lyon County Kansas April 17, 2013 1:00-3:00PM

cr_2013_hb2209_s_1888

REPORTS OF STANDING COMMITTEES

MADAM PRESIDENT:

The Committee on **Judiciary** recommends **HB 2209**, as amended by House Committee,

be amended on page 6, following line 17, by inserting:

"Sec. 2. K.S.A. 2012 Supp. 22-4903 is hereby amended to read as follows: 22-4903. (a)

Violation of the Kansas offender registration act is the failure by an offender, as defined in

K.S.A. 22-4902, and amendments thereto, to comply with any and all provisions of such act,

including any and all duties set forth in K.S.A. 22-4905 through 22-4907, and amendments

thereto. Any violation of the Kansas offender registration act which continues for more than 30

consecutive days shall, upon the 31st consecutive day, constitute a new and separate offense, and

shall continue to constitute a new and separate offense every 30 days thereafter for as long as the

violation continues.

(b) Aggravated violation of the Kansas offender registration act is violation of the

Kansas offender registration act which continues for more than 180 consecutive days. Any

aggravated violation of the Kansas offender registration act which continues for more than 180

consecutive days shall, upon the 181st consecutive day, constitute a new and separate offense,

and shall continue to constitute a new and separate violation of the Kansas offender registration

act every 30 days thereafter, or a new and separate aggravated violation of the Kansas offender

registration act every 180 days thereafter, for as long as the violation continues.

(c) (1) Except as provided in subsection (c)(3), violation of the Kansas offender

registration act is:

(A) Upon a first conviction, a severity level 6, person felony;

Lyon County Kansas April 17, 2013 1:00-3:00PM

2

cr_2013_hb2209_s_1888

- (B) upon a second conviction, a severity level 5, person felony; and
- (C) upon a third or subsequent conviction, a severity level 3, person felony.
- (2) Except as provided in subsection (c)(3), aggravated violation of the Kansas offender registration act is a severity level 3, person felony.
- (3) Violation of the Kansas offender registration act or aggravated violation of the Kansas offender registration act consisting only of failing to remit payment to the sheriff's office as required in subsection (k) of K.S.A. 22-4905, and amendments thereto, is:
- (A) Except as provided in subsection (c)(3)(B), a class A misdemeanor if, within 15 days of registration, full payment is not remitted to the sheriff's office;
- (B) a severity level 9, person felony if, within 15 days of the most recent registration, two or more full payments have not been remitted to the sheriff's office.
 - (d) Prosecution of violations of this section may be held:
 - (1) In any county in which the offender resides;
- (2) in any county in which the offender is required to be registered under the Kansas offender registration act;
- (3) in any county in which the offender is located during which time the offender is not in compliance with the Kansas offender registration act; or
- (4) in the county in which any conviction or adjudication occurred for which the offender is required to be registered under the Kansas offender registration act.";

On page 9, in line 6, by striking ". Failure"; by striking all in lines 7 and 8; in line 9, by striking "and amendments thereto";

On page 11, in line 21, after "report" by inserting "to the registering law enforcement agency"; in line 39, after "sent" by inserting ", within three business days,"; in line 40, after "school" by inserting ", and to the Kansas bureau of investigation";

Lyon County Kansas April 17, 2013 1:00-3:00PM

3

cr_2013_hb2209_s_1888

On page 12, in line 37, by striking "during"; by striking all in line 38; in line 39, by striking "occurring before and after the month of the offender's birthday" and inserting "as part of the reporting process required pursuant to subsection (b)"; in line 41, after "school." by inserting "Registration will be completed regardless of whether or not the offender remits payment. Failure of the offender to remit full payment within 15 days of registration is a violation of the Kansas offender registration act and is subject to prosecution pursuant to K.S.A. 22-4903, and amendments thereto.";

And by renumbering sections accordingly;

On page 21, in line 11, after "22-4902," by inserting "22-4903,";

On page 1, in the title, in line 2, after "22-4902," by inserting "22-4903,"; and the bill be passed as amended.

| | Chairnerson |
|--|-------------|

Lyon County Kansas April 17, 2013 1:00-3:00PM

As Amended by Senate Committee

As Amended by House Committee

Session of 2013 **HOUSE BILL No. 2209** By Committee on Corrections and Juvenile Justice 2-4 AN ACT concerning the Kansas offender registration act; amending K.S.A. 2012 Supp. 22-4902, 22-4903, 22-4904, 22-4905, 22-4906 and 2 3 22-4907 and repealing the existing sections. 4 5 Be it enacted by the Legislature of the State of Kansas: 6 Section 1. K.S.A. 2012 Supp. 22-4902 is hereby amended to read as follows: 22-4902. As used in the Kansas offender registration act, unless 7 8 the context otherwise requires: 9 (a) "Offender" means: (1) A sex offender; 10 (2) a violent offender; 11 12 (3) a drug offender; (4) any person who has been required to register under out of state 13 law or is otherwise required to be registered; and 14 (5) any person required by court order to register for an offense not 15 16 otherwise required as provided in the Kansas offender registration act. 17 "Sex offender" includes any person who: On or after April 14, 1994, is convicted of any sexually violent 18 (1) 19 crime; (2) On or after-April 14, 1994 July 1, 2002, is adjudicated as a 20 21 juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime, unless the court, on 22 the record, finds that the act involved non-forcible sexual conduct, the 23 24 victim was at least 14 years of age and the offender was not more than four years older than the victim; 25 26 (3) has been determined to be a sexually violent predator; 27 (4) on or after May 29 July 1, 1997, is convicted of any of the 28 29 age: 30 31 K.S.A. 2012 Supp. 21-5511, and amendments thereto; (B) criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-

following crimes when one of the parties involved is less than 18 years of

- (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
- 32 3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2012 33 Supp. 21-5504, and amendments thereto; 34

Lyon County Kansas April 17, 2013 1:00-3:00PM

HB 2209-Am. by SC

3

6

10

11

12 13

14

15 16

17

20 21

22

23 24

26

27

28 29

30

31

32

33

34

35

36 37

40

41

- (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2012 Supp. 21-6420, and amendments thereto; 2
 - (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its repeal, or K.S.A. 2012 Supp. 21-6421, and amendments thereto; or
 - (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior to its repeal, or K.S.A. 2012 Supp. 21-5513, and amendments thereto;
 - (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5505, and amendments thereto;
 - (6) is convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of an offense defined in this subsection; or
 - (7) has been convicted of an offense that is comparable to any crime defined in this subsection, or any out of state conviction for an offense that under the laws of this state would be an offense defined in this subsection.
 - (c) "Sexually violent crime" means:
- (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 18 19 2012 Supp. 21-5503, and amendments thereto;
 - (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;
- (3) aggravated indecent liberties with a child, as defined in K.S.A. 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-25 5506, and amendments thereto:
 - (4) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;
 - (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;
 - (6) indecent solicitation of a child, as defined in K.S.A. 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5508, and amendments thereto;
 - (7) aggravated indecent solicitation of a child, as defined in K.S.A. 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5508, and amendments thereto;
- (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior 38 39 to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto;
 - (9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5505, and amendments thereto;
- (10) aggravated incest, as defined in K.S.A. 21-3603, prior to its 43

Lyon County Kansas April 17, 2013 1:00-3:00PM

HB 2209-Am. by SC

2

3

4 5

6

7 8

10

11

12

13

14

15 16

17

18

19 20

21

22

26

27 28

29

31

32

33

34 35

37

39

41

repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5605 21-5604, and amendments thereto:

- (11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its repeal, and K.S.A. 2012 Supp. 21-5509, and amendments thereto, committed on or after April 17, 2008;
- (12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to its repeal, or K.S.A. 2012 Supp. 21-5512, and amendments thereto;
- (13) any conviction or adjudication for an offense that is comparable to a sexually violent crime as defined in this subsection, or any out of state conviction or adjudication for an offense that under the laws of this state would be a sexually violent crime as defined in this subsection;
- (14) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually violent crime, as defined in this subsection; or
- (15) any act which has been determined beyond a reasonable doubt to have been sexually motivated, unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim. As used in this paragraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.
- 23 (d) "Sexually violent predator" means any person who, on or after 24 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 25 59-29a01 et seq., and amendments thereto.
 - (e) "Violent offender" includes any person who:
 - (1) On or after May 29 July 1, 1997, is convicted of any of the following crimes:
- (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal, 30 or K.S.A. 2012 Supp. 21-5401, and amendments thereto;
 - (B) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto;
 - (C) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments thereto;
- (D) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto; 36
- (E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to 38 its repeal, or subsections (a)(1), (a)(2) or (a)(4) of K.S.A. 2012 Supp. 21-5405, and amendments thereto. The provisions of this paragraph shall 40 not apply to violations of subsection (a)(3) of K.S.A. 2012 Supp. 21-5405, and amendments thereto, which occurred on or after July 1, 42 2011, through July 1, 2013;
- (F) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or 43

Lyon County Kansas April 17, 2013 1:00-3:00PM

HB 2209—Am. by SC

2

3

4

8

10

11 12

13 14

15

16 17 18

19

20 21

22

23

24

25

26 27

28

29

30

31

32

33

34

35

36

subsection (a) of K.S.A. 2012 Supp. 21-5408, and amendments thereto;

- (G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5408, and amendments thereto:
- (H) criminal restraint, as defined in K.S.A. 21-3424, prior to its repeal, or K.S.A. 2012 Supp. 21-5411, and amendments thereto, except by a parent, and only when the victim is less than 18 years of age; or
- (I) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5426, and amendments thereto;
- (2) on or after July 1, 2006, is convicted of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony;
- has been convicted of an offense that is comparable to any crime defined in this subsection, any out of state conviction for an offense that under the laws of this state would be an offense defined in this subsection;
- (4) is convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.
- (f) "Drug offender"-means includes any person who-has been convicted of, on or after July 1, 2007:
 - On or after July 1, 2007, Is convicted of any of the following crimes:
 - (1) (A) Unlawful manufacture or attempting such of any controlled substance or controlled substance analog, as defined in K.S.A. 65-4159, prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or K.S.A. 2012 Supp. 21-5703, and amendments thereto;
 - (2) (B) possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance, as defined in subsection (a) of K.S.A. 65-7006, prior to its repeal, subsection (a) of K.S.A. 2010 Supp. 21-36a09, prior to its transfer, or subsection (a) of K.S.A. 2012 Supp. 21-5709, and amendments thereto;
- (3) (C) K.S.A. 65-4161, prior to its repeal, subsection (a)(1) of K.S.A. 37 38 2010 Supp. 21-36a05, prior to its transfer, or subsection (a)(1) of K.S.A. 39 2012 Supp. 21-5705, and amendments thereto. The provisions of this 40 paragraph shall not apply to violations of subsections (a)(2) through (a)(6) 41 or (b) of K.S.A. 2010 Supp. 21-36a05 which occurred on or after July 1, 42 2009, through April 15, 2010; 43
 - (4) (2) has been convicted of an offense that is comparable to any

Lyon County Kansas April 17, 2013 1:00-3:00PM

HB 2209—Am. by SC

12.

 crime defined in this subsection, any out of state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or

- (5) (3) is or has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.
- (g) Convictions or adjudications which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction or adjudication. Any conviction or adjudication set aside pursuant to law is not a conviction or adjudication for purposes of this section. A conviction or adjudication from any out of state court shall constitute a conviction or adjudication for purposes of this section.
- (h) "School" means any public or private educational institution, including, but not limited to, postsecondary school, college, university, community college, secondary school, high school, junior high school, middle school, elementary school, trade school, vocational school or professional school providing training or education to an offender for three or more consecutive days or parts of days, or for 10 or more nonconsecutive days in a period of 30 consecutive days.
- (i) "Employment" means any full-time, part-time, transient, day-labor employment or volunteer work, with or without compensation, for three or more consecutive days or parts of days, or for 10 or more nonconsecutive days in a period of 30 consecutive days.
- (j) "Reside" means to stay, sleep or maintain with regularity or temporarily one's person and property in a particular place other than a location where the offender is incarcerated. It shall be presumed that an offender resides at any and all locations where the offender stays, sleeps or maintains the offender's person for three or more consecutive days or parts of days, or for ten or more non-consecutive days in a period of 30 consecutive days.
- (k) "Residence" means a particular and definable place where an individual resides. Nothing in the Kansas offender registration act shall be construed to state that an offender may only have one residence for the purpose of such act.
 - (l) "Transient" means having no fixed or identifiable residence.
- (m) "Law enforcement agency having initial jurisdiction" means the registering law enforcement agency of the county or location of jurisdiction where the offender expects to most often reside upon the offender's discharge, parole or release.
- (n) "Registering law enforcement agency" means the sheriff's office or tribal police department responsible for registering an offender.

- (o) "Registering entity" means any person, agency or other governmental unit, correctional facility or registering law enforcement agency responsible for obtaining the required information from, and explaining the required registration procedures to, any person required to register pursuant to the Kansas offender registration act. "Registering entity" shall include, but not be limited to, sheriff's offices, tribal police departments and correctional facilities.
- (p) "Treatment facility" means any public or private facility or institution providing inpatient mental health, drug or alcohol treatment or counseling, but does not include a hospital, as defined in K.S.A. 65-425, and amendments thereto.
- (q) "Correctional facility" means any public or private correctional facility, juvenile detention facility, prison or jail.
- (r) "Out of state" means: the District of Columbia; any federal, military or tribal jurisdiction, including those within this state; any foreign jurisdiction; or any state or territory within the United States, other than this state.
- (s) "Duration of registration" means the length of time during which an offender is required to register for a specified offense or violation.
- Sec. 2. K.S.A. 2012 Supp. 22-4903 is hereby amended to read as follows: 22-4903. (a) Violation of the Kansas offender registration act is the failure by an offender, as defined in K.S.A. 22-4902, and amendments thereto, to comply with any and all provisions of such act, including any and all duties set forth in K.S.A. 22-4905 through 22-4907, and amendments thereto. Any violation of the Kansas offender registration act which continues for more than 30 consecutive days shall, upon the 31st consecutive day, constitute a new and separate offense, and shall continue to constitute a new and separate offense every 30 days thereafter for as long as the violation continues.
- (b) Aggravated violation of the Kansas offender registration act is violation of the Kansas offender registration act which continues for more than 180 consecutive days. Any aggravated violation of the Kansas offender registration act which continues for more than 180 consecutive days shall, upon the 181st consecutive day, constitute a new and separate offense, and shall continue to constitute a new and separate violation of the Kansas offender registration act every 30 days thereafter, or a new and separate aggravated violation of the Kansas offender registration act every 180 days thereafter, for as long as the violation continues.
- (c) (1) Except as provided in subsection (c)(3), violation of the Kansas offender registration act is:
 - (A) Upon a first conviction, a severity level 6, person felony;
 - (B) upon a second conviction, a severity level 5, person felony; and
 - (C) upon a third or subsequent conviction, a severity level 3, person

Lyon County Kansas April 17, 2013 1:00-3:00PM

HB 2209-Am. by SC

7

felony.

2

3

10

11 12

13

14

15

16

17

18 19

20

21

22

23

24

25 26

27

28

29

30

31 32

33

34

35

36

37

38 39

40

41

- (2) Except as provided in subsection (c)(3), aggravated violation of the Kansas offender registration act is a severity level 3, person felony.
- (3) Violation of the Kansas offender registration act or aggravated violation of the Kansas offender registration act consisting only of failing to remit payment to the sheriff's office as required in subsection (k) of K.S.A. 22-4905, and amendments thereto, is:
- (A) Except as provided in subsection (c)(3)(B), a class A misdemeanor if, within 15 days of registration, full payment is not remitted to the sheriff's office;
- (B) a severity level 9, person felony if, within 15 days of the most recent registration, two or more full payments have not been remitted to the sheriff's office.
 - (d) Prosecution of violations of this section may be held:
 - (1) In any county in which the offender resides;
- (2) in any county in which the offender is required to be registered under the Kansas offender registration act;
- (3) in any county in which the offender is located during which time the offender is not in compliance with the Kansas offender registration act; or
- (4) in the county in which any conviction or adjudication occurred for which the offender is required to be registered under the Kansas offender registration act.
- Sec. 2. 3. K.S.A. 2012 Supp. 22-4904 is hereby amended to read as follows: 22-4904. (a) (1) At the time of conviction or adjudication for an offense requiring registration as provided in K.S.A. 22-4902, and amendments thereto, the court shall:
- (A) Inform any offender, on the record, of the procedure to register and the requirements of K.S.A. 22-4905, and amendments thereto; and
 - (B) if the offender is released:
- (i) Complete a notice of duty to register, which shall include title and statute number of conviction or adjudication, date of conviction or adjudication, case number, county of conviction or adjudication, and the following offender information: Name, address, date of birth, social security number, race, ethnicity and gender;
- (ii) require the offender to read and sign the notice of duty to register, which shall include a statement that the requirements provided in this subsection have been explained to the offender;
- (iii) order the offender to report within three business days to the registering law enforcement agency in the county or tribal land of conviction or adjudication and to the registering law enforcement agency in any place where the offender resides, maintains employment or attends school, to complete the registration form with all information and any

Lyon County Kansas April 17, 2013 1:00-3:00PM

HB 2209-Am. by SC

updated information required for registration as provided in K.S.A. 22-4907, and amendments thereto; and

- (iv) provide one copy of the notice of duty to register to the offender and, within three business days, send a copy of the form to the law enforcement agency having initial jurisdiction and to the Kansas bureau of investigation.
- (2) At the time of sentencing or disposition for an offense requiring registration as provided in K.S.A. 22-4902, and amendments thereto, the court shall ensure the age of the victim is documented in the journal entry of conviction or adjudication.
- (b) The staff of any correctional facility or the registering law enforcement agency's designee shall:
- (1) At the time of initial custody, register any offender within three business days:
- (A) Inform the offender of the procedure for registration and of the offender's registration requirements as provided in K.S.A. 22-4905, and amendments thereto:
- (B) complete the registration form with all information and updated information required for registration as provided in K.S.A. 22-4907, and amendments thereto;
- (C) require the offender to read and sign the registration form, which shall include a statement that the requirements provided in this subsection have been explained to the offender;
- (D) provide one copy of the form to the offender and, within three business days, send a copy of the form to the Kansas bureau of investigation; and
- (E) enter all offender information required by the national crime information center into the national sex offender registry system within three business days of completing the registration or electronically submit all information and updated information required for registration as provided in K.S.A. 22-4907, and amendments thereto, within three business days to the Kansas bureau of investigation;
- (2) notify the Kansas bureau of investigation of the incarceration of any offender and of the location or any change in location of the offender while in custody;
- (3) prior to any offender being discharged, paroled, furloughed or released on work or school release from that does not require the daily return to a correctional facility, or otherwise released from incarecration:
- (A) Inform the offender of the procedure for registration and of the offender's registration requirements as provided in K.S.A. 22-4905, and amendments thereto;
- (B) complete the registration form with all information and updated information required for registration as provided in K.S.A. 22-4907, and

Lyon County Kansas April 17, 2013 1:00-3:00PM

HB 2209-Am. by SC

9

| 1 | amendn | nents thereto |
|---|--------|---------------|
| 2 | (C) | require the |

3

5

6

10

11

12 13

14

15 16

17

18 19

20

21

22

23 24

25

26

27

28 29

30

31 32

33

34 35

36 37

38

39

- (C) require the offender to read and sign the registration form, which shall include a statement that the requirements provided in this subsection have been explained to the offender;
 - (D) photograph the offender's face and any identifying marks;
 - (E) obtain fingerprint and palm prints of the offender; and
- (F) provide one copy of the form to the offender and, within three business days, send a copy of the form and of the photograph or photographs to the law enforcement agency having initial jurisdiction and to the Kansas bureau of investigation; and
- (4) notify the law enforcement agency having initial jurisdiction and the Kansas bureau of investigation seven business days prior to any offender being discharged, paroled, furloughed or released on work or school release.
 - (c) The staff of any treatment facility shall:
- (1) Within three business days of an offender's arrival for inpatient treatment, inform the registering law enforcement agency of the county or location of jurisdiction in which the treatment facility is located of the offender's presence at the treatment facility and the expected duration of the treatment, and immediately notify the registering law enforcement agency of an unauthorized or unexpected absence of the offender during the offender's treatment;
- (2) inform the registering law enforcement agency of the county or location of jurisdiction in which the treatment facility is located within three business days of an offender's discharge or release; and
- (3) provide information upon request to any registering law enforcement agency having jurisdiction relevant to determining the presence of an offender within the treatment facility.
- (d) The registering law enforcement agency, upon the reporting of any offender, shall:
- (1) Inform the offender of the duty to register as provided by the Kansas offender registration act;
- (2) (A) explain the procedure for registration and the offender's registration requirements as provided in K.S.A. 22-4905, and amendments thereto:
- (B) obtain the information required for registration as provided in K.S.A. 22-4907, and amendments thereto; and
- (C) require the offender to read and sign the registration form, which shall include a statement that the requirements provided in this subsection have been explained to the offender;
- 41 (3) complete the registration form with all information and updated 42 information required for registration, as provided in K.S.A. 22-4907, and 43 amendments thereto, each time the offender reports to the registering law

Lyon County Kansas April 17, 2013 1:00-3:00PM

HB 2209—Am. by SC

enforcement agency. All information and updated information reported by an offender shall be forwarded to the Kansas bureau of investigation within three business days;

- (4) maintain the original signed registration form, provide one copy of the completed registration form to the offender and, within three business days, send one copy of the completed form to the Kansas bureau of investigation;
- (5) forward a copy of any certified letter used for reporting pursuant to K.S.A. 22-4905, and amendments thereto, when utilized, within three business days to the Kansas bureau of investigation;
- (6) obtain registration information from every offender required to register regardless of whether or not the offender remits payment. Failure of the offender to remit payment is a violation of the Kansas offender registration act and is subject to prosecution pursuant to K.S.A. 22-4903. and amendments thereto;
- (7) upon every required reporting, update the photograph or photographs of the offender's face and any new identifying marks and immediately forward copies or electronic files of the photographs to the Kansas bureau of investigation;
- (8) enter all offender information required by the national crime information center into the national sex offender registry system within three business days of completing the registration or electronically submit all information and updated information required for registration as provided in K.S.A. 22-4907, and amendments thereto, within three business days to the Kansas bureau of investigation;
- (9) maintain a special fund for the deposit and maintenance of fees paid by offenders. All funds retained by the registering law enforcement agency pursuant to the provisions of this section shall be credited to a special fund of the registering law enforcement agency which shall be used solely for law enforcement and criminal prosecution purposes and which shall not be used as a source of revenue to reduce the amount of funding otherwise made available to the registering law enforcement agency; and
- (10) forward any initial registration and updated registration information within three business days to any out of state jurisdiction where the offender is expected to reside, maintain employment or attend school.
 - (e) (1) The Kansas bureau of investigation shall:
- (A) Forward all additions or changes in information to any registering law enforcement agency, other than the agency that submitted the form, where the offender expects to reside, maintain employment or attend school:
- (B) ensure that offender information is immediately entered in the state registered offender database and the Kansas registered offender

Lyon County Kansas April 17, 2013 1:00-3:00PM

HB 2209-Am. by SC

website, as provided in K.S.A. 22-4909, and amendments thereto;

- (C) transmit offender conviction or adjudication data, fingerprints and palm prints to the federal bureau of investigation; and
- (D) ensure all offender information required by the national crime information center is transmitted into the national sex offender registry system within three business days of such information being electronically submitted to the Kansas bureau of investigation.
- (2) The director of the Kansas bureau of investigation may adopt rules and regulations necessary to implement the provisions of the Kansas offender registration act.
- (f) The attorney general shall, within 10 business days of an offender being declared a sexually violent predator, forward to the Kansas bureau of investigation all relevant court documentation declaring an offender a sexually violent predator.
- (g) The state department of education shall annually notify any school of the Kansas bureau of investigation internet website, and any internet website containing information on the Kansas offender registration act sponsored or created by the registering law enforcement agency of the county or location of jurisdiction in which the school is located, for the purpose of locating offenders who reside near such school. Such notification shall include information that the registering law enforcement agency of the county or location of jurisdiction where such school is located is available to the school to assist in using the registry and providing additional information on registered offenders.
- (h) The secretary of health and environment shall annually notify any licensed child care facility of the Kansas bureau of investigation internet website, and any internet website containing information on the Kansas offender registration sponsored or created by the registering law enforcement agency of the county in which the facility is located, for the purpose of locating offenders who reside near such facility. Such notification shall include information that the registering law enforcement agency of the county or location of jurisdiction where such child care facility is located is available to the child care facilities to assist in using the registry and providing additional information on registered offenders.
- (i) Upon request, the clerk of any court of record shall provide the Kansas bureau of investigation copies of complaints, indictments, information, journal entries, commitment orders or any other documents necessary to the performance of the duties of the Kansas bureau of investigation under the Kansas offender registration act. No fees or charges for providing such documents may be assessed.
- Sec. 3. 4. K.S.A. 2012 Supp. 22-4905 is hereby amended to read as follows: 22-4905. Any offender required to register as provided in the Kansas offender registration act shall:

Lyon County Kansas April 17, 2013 1:00-3:00PM

HB 2209—Am. by SC

2

3

4

5

6

7

9

10 11

12

13

14

15

16

17

18

19 20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41

42

43

12

(a) Except as otherwise provided in this subsection, register in person with the registering law enforcement agency within three business days of coming into any county or location of jurisdiction in which the offender resides or intends to reside, maintains employment or intends to maintain employment, or attends school or intends to attend school. Any such offender who cannot physically register in person with the registering law enforcement agency for such reasons including, but not limited to, incapacitation or hospitalization, as determined by a person licensed to practice medicine or surgery, shall be subject to verification requirements other than in-person registration, as determined by the registering law enforcement agency having jurisdiction;

- (b) except as provided further, for any: (1) Sex offender, including a violent offender or drug offender who is also a sex offender, report in person four times each year to the registering law enforcement agency in the county or location of jurisdiction in which the offender resides, maintains employment or is attending a school; and (2) violent offender or drug offender, report in person four times each year to the registering law enforcement agency in the county or location of jurisdiction in which the offender resides, maintains employment or is attending a school, except that, at the discretion of the registering law enforcement agency, one of the four required reports may be conducted by certified letter. When utilized, the certified letter for reporting shall be sent by the registering law enforcement agency to the reported residence of the offender. The offender shall indicate any changes in information as required for reporting in person. The offender shall respond by returning the certified letter to the registering law enforcement agency within 10 business days by certified mail. The offender shall be required to report to the registering law enforcement agency once during the month of the offender's birthday and every third, sixth and ninth month occurring before and after the month of the offender's birthday. The registering law enforcement agency may determine the appropriate times and days for reporting by the offender, consistent with this subsection. Nothing contained in this subsection shall be construed to alleviate any offender from meeting the requirements prescribed in the Kansas offender registration act;
- (c) provide the information required for registration as provided in K.S.A. 22-4907, and amendments thereto, and verify all information previously provided is accurate;
- (d) if in the custody of a correctional facility, register with the correctional facility within three business days of initial custody and shall not be required to update such registration until released from custody, granted work release or otherwise allowed to leave the grounds of the discharged, paroled, furloughed or released on work or school release from a correctional facility. A copy of the registration form and any

Lyon County Kansas April 17, 2013 1:00-3:00PM

HB 2209-Am. by SC

updated registrations for an offender released on work or school release shall be sent, within three business days, to the registering law enforcement agency where the offender is incarcerated, maintains employment or attends school, and to the Kansas bureau of investigation;

- (e) notwithstanding subsections (a) and (b), if the offender is transient, report in person to the registering law enforcement agency of such county or location of jurisdiction in which the offender is physically present within three business days of arrival in the county or location of jurisdiction. Such offender shall be required to register in person with the registering law enforcement agency every 30 days, or more often at the discretion of the registering law enforcement agency. Such offender shall comply with the provisions of the Kansas offender registration act and, in addition, shall:
- (1) Provide a list of places where the offender has slept and otherwise frequented during the period of time since the last date of registration; and
- (2) provide a list of places where the offender may be contacted and where the offender intends to sleep and otherwise frequent during the period of time prior to the next required date of registration;
- (f) if required by out of state law, register in any out of state jurisdiction, where the offender resides, maintains employment or attends school;
- (g) register in person upon any commencement, change or termination of residence location, employment status, school attendance or other information as provided in K.S.A. 22-4907, and amendments thereto, within three business days of such commencement, change or termination, to the registering law enforcement agency or agencies where last registered and provide written notice to the Kansas bureau of investigation;
- (h) report in person to the registering law enforcement agency or agencies within three business days of any change in name;
- (i) if receiving inpatient treatment at any treatment facility, inform the treatment facility of the offender's status as an offender and inform the registering law enforcement agency of the county or location of jurisdiction in which the treatment facility is located of the offender's presence at the treatment facility and the expected duration of the treatment;
- (j) submit to the taking of an updated photograph by the registering law enforcement agency on each occasion when the offender registers with or reports to the registering law enforcement agency in the county or location of jurisdiction in which the offender resides, maintains employment or attends school. In addition, such offender shall submit to the taking of a photograph to document any changes in identifying

Lyon County Kansas April 17, 2013 1:00-3:00PM

HB 2209-Am. by SC

characteristics, including, but not limited to, scars, marks and tattoos;

- (k) remit payment to the sheriff's office in the amount of \$20-during the month of the offender's birthday and every third, sixth and ninth month occurring before and after the month of the offender's birthday as part of the reporting process required pursuant to subsection (b) in each county in which the offender resides, maintains employment or is attending school. Registration will be completed regardless of whether or not the offender remits payment. Failure of the offender to remit full payment within 15 days of registration is a violation of the Kansas offender registration act and is subject to prosecution pursuant to K.S.A. 22-4903, and amendments thereto. Notwithstanding other provisions herein, payment of this fee is not required:
- (1) When an offender provides updates or changes in information or during an initial registration unless such updates, changes or initial registration is during the month of such offender's birthday and every third, sixth and ninth month occurring before and after the month of the offender's birthday;
- (2) when an offender is transient and is required to register every 30 days, or more frequently as ordered by the registering law enforcement agency, except during the month of the offender's birthday and every third, sixth and ninth month occurring before and after the month of the offender's birthday; or
- (3) if an offender has, prior to the required reporting and within the last three years, been determined to be indigent by a court of law, and the basis for that finding is recorded by the court;
- (l) annually renew any driver's license pursuant to K.S.A. 8-247, and amendments thereto, and annually renew any identification card pursuant to K.S.A. 2012 Supp. 8-1325a, and amendments thereto;
- (m) if maintaining primary residence in this state, surrender all driver's licenses and identification cards from other states, territories and the District of Columbia, except if the offender is presently serving and maintaining active duty in any branch of the United States military or the offender is an immediate family member of a person presently serving and maintaining active duty in any branch of the United States military;
- (n) read and sign the registration form noting whether the requirements provided in this section have been explained to the offender; and
- (o) report in person to the registering law enforcement agency in the jurisdiction of the offender's residence and provide written notice to the Kansas bureau of investigation 21 days prior to any travel outside of the United States, and provide an itinerary including, but not limited to, destination, means of transport and duration of travel, or if under emergency circumstances, within three business days of making travel

Lyon County Kansas April 17, 2013 1:00-3:00PM

HB 2209-Am. by SC

| arrangements |
|--------------|
| |

- Sec. 4. 5. K.S.A. 2012 Supp. 22-4906 is hereby amended to read as follows: 22-4906. (a) (1) Except as provided in subsection (c), if convicted of any of the following offenses, an offender's duration of registration shall be, if confined, 15 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 15 years from the date of conviction:
- (A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5505, and amendments thereto;
- (B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or K.S.A. 2012 Supp. 21-5511, and amendments thereto, when one of the parties involved is less than 18 years of age;
- (C) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its repeal, or K.S.A. 2012 Supp. 21-6421, and amendments thereto, when one of the parties involved is less than 18 years of age;
- (D) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior to its repeal, or K.S.A. 2012 Supp. 21-5513, and amendments thereto, when one of the parties involved is less than 18 years of age;
- (E) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2012 Supp. 21-5401, and amendments thereto;
- 21 (F) murder in the first degree, as defined in K.S.A. 21-3401, prior to 22 its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto;
 - (G) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments thereto;
- 25 (H) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto;
 - (I) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or *subsections* (a)(1), (a)(2) or (a)(4) of K.S.A. 2012 Supp. 21-5405, and amendments thereto;
 - (J) criminal restraint, as defined in K.S.A. 21-3424, prior to its repeal, or K.S.A. 2012 Supp. 21-5411, and amendments thereto, except by a parent, and only when the victim is less than 18 years of age;
 - (K) any act which has been determined beyond a reasonable doubt to have been sexually motivated, unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim:
- 38 (L) conviction of any person required by court order to register for an 39 offense not otherwise required as provided in the Kansas offender 40 registration act:
- 41 (M) conviction of any person felony and the court makes a finding on 42 the record that a deadly weapon was used in the commission of such 43 person felony;

Lyon County Kansas April 17, 2013 1:00-3:00PM

HB 2209-Am. by SC

2

3

6 7

8

10

11

15

19 20

21

22 23

24

25

26

27

29

30

35

36 37

- (N) unlawful manufacture or attempting such of any controlled substance or controlled substance analog, as defined in K.S.A. 65-4159, prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or K.S.A. 2012 Supp. 21-5703, and amendments thereto;
- (O) possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance, as defined by subsection (a) of K.S.A. 65-7006, prior to its repeal, subsection (a) of K.S.A. 2010 Supp. 21-36a09, prior to its transfer, or subsection (a) of K.S.A. 2012 Supp. 21-5709, and amendments thereto;
- (P) K.S.A. 65-4161, prior to its repeal, subsection (a)(1) of K.S.A. 12 2010 Supp. 21-36a05, prior to its transfer, or subsection (a)(1) of K.S.A. 13 2012 Supp. 21-5705, and amendments thereto; or 14
- (Q) any attempt, conspiracy or criminal solicitation, as defined in 16 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012 17 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an 18 offense defined in this subsection.
 - (2) Except as otherwise provided by the Kansas offender registration act, the duration of registration terminates, if not confined, at the expiration of 15 years from the date of conviction. Any period of time during which any offender is incarcerated in any jail or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration.
 - Except as provided in subsection (c), if convicted of any of the following offenses, an offender's duration of registration shall be, if confined, 25 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 25 years from the date of conviction:
- 31 (A) Criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-32 3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2012 Supp. 21-5504, and amendments thereto, when one of the parties involved 33 34 is less than 18 years of age;
 - (B) indecent solicitation of a child, as defined in K.S.A. 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5508, and amendments thereto;
- 38 (C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its 39 repeal, or K.S.A. 2012 Supp. 21-5509, and amendments thereto;
- 40 (D) aggravated incest, as defined in K.S.A. 21-3603, prior to its 41 repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5604, and amendments 42
- (E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior 43

Lyon County Kansas April 17, 2013 1:00-3:00PM

HB 2209-Am. by SC

2

3

4 5

6

10

11

12 13

14

15 16

17

18 19

20

21

22

23

24

25

26

27

33

34

35

- to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;
 - (F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to its repeal, or K.S.A. 2012 Supp. 21-5512, and amendments thereto;
 - (G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto, if the victim is 14 or more years of age but less than 18 years of age;
 - (H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5505, and amendments thereto;
- (I) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2012 Supp. 21-6420, and amendments thereto, if the prostitute is 14 or more years of age but less than 18 years of age; or
- (J) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.
- (2) Except as otherwise provided by the Kansas offender registration act, the duration of registration terminates, if not confined, at the expiration of 25 years from the date of conviction. Any period of time during which any offender is incarcerated in any jail or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration.
- (c) Upon a second or subsequent conviction of an offense requiring registration, an offender's duration of registration shall be for such offender's lifetime.
- 28 (d) The duration of registration for any offender who has been 29 convicted of any of the following offenses shall be for such offender's 30 lifetime:
- 31 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 32 2012 Supp. 21-5503, and amendments thereto;
 - (2) aggravated indecent solicitation of a child, as defined in K.S.A. 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5508, and amendments thereto;
- 36 (3) aggravated indecent liberties with a child, as defined in K.S.A. 37 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-3506, and amendments thereto;
- 39 (4) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of 40 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A. 41 2012 Supp. 21-5504, and amendments thereto;
- 42 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior 43 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and

Lyon County Kansas April 17, 2013 1:00-3:00PM

HB 2209—Am. by SC

18

amendments thereto:

1

2

8

10

11 12

13 14

15

19

2.0

21 22

23

24

25

26 27

28

29

30

31 32

33 34

35 36

37

38

39

40

41

- (6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5426, and amendments thereto;
- (7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto, if the victim is less than 14 years of age;
- (8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2012 Supp. 21-6420, and amendments thereto, if the prostitute is less than 14 years of age;
- (9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5408, and amendments thereto;
- (10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5408, and amendments
- (11) any attempt, conspiracy or criminal solicitation, as defined in 16 17 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012 18 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.
 - (e) Any person who has been declared a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall register for such person's lifetime.
 - (f) Notwithstanding any other provisions of this section, for an offender less than 14 years of age who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and amendments thereto, the court shall:
 - (1) Require registration until such offender reaches 18 years of age, at the expiration of five years from the date of adjudication or, if confined, from release from confinement, whichever date occurs later. Any period of time during which the offender is incarcerated in any jail, juvenile facility or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration;
 - (2) not require registration if the court, on the record, finds substantial and compelling reasons therefor; or
 - (3) require registration, but such registration information shall not be open to inspection by the public or posted on any internet website, as provided in K.S.A. 22-4909, and amendments thereto. If the court requires registration but such registration is not open to the public, such offender shall provide a copy of such court order to the registering law enforcement agency at the time of registration. The registering law enforcement agency shall forward a copy of such court order to the Kansas bureau of

Lyon County Kansas April 17, 2013 1:00-3:00PM

HB 2209—Am. by SC

investigation.

 If such offender violates a condition of release during the term of the conditional release, the court may require such offender to register pursuant to paragraph (1).

- (g) Notwithstanding any other provisions of this section, for an offender 14 years of age or more who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and amendments thereto, and such crime is not an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A. 2012 Supp. 21-6804, and amendments thereto, the court shall:
- (1) Require registration until such offender reaches 18 years of age, at the expiration of five years from the date of adjudication or, if confined, from release from confinement, whichever date occurs later. Any period of time during which the offender is incarcerated in any jail, juvenile facility or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration;
- (2) not require registration if the court, on the record, finds substantial and compelling reasons therefor; or
- (3) require registration, but such registration information shall not be open to inspection by the public or posted on any internet website, as provided in K.S.A. 22-4909, and amendments thereto. If the court requires registration but such registration is not open to the public, such offender shall provide a copy of such court order to the registering law enforcement agency at the time of registration. The registering law enforcement agency shall forward a copy of such court order to the Kansas bureau of investigation.

If such offender violates a condition of release during the term of the conditional release, the court may require such offender to register pursuant to paragraph (1).

- (h) Notwithstanding any other provisions of this section, an offender 14 years of age or more who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and amendments thereto, and such crime is an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A. 2012 Supp. 21-6804, and amendments thereto, shall be required to register for such offender's lifetime.
- (i) Notwithstanding any other provision of law, if a diversionary agreement or probation order, either adult or juvenile, or a juvenile offender sentencing order, requires registration under the Kansas offender

Lyon County Kansas April 17, 2013 1:00-3:00PM

HB 2209-Am. by SC

q

registration act for an offense that would not otherwise require registration as provided in subsection (a)(5) of K.S.A 22-4902, and amendments thereto, then all provisions of the Kansas offender registration act shall apply, except that the duration of registration shall be controlled by such diversionary agreement, probation order or juvenile offender sentencing order.

- (j) The duration of registration does not terminate if the convicted or adjudicated offender again becomes liable to register as provided by the Kansas offender registration act during the required period of registration.
- (k) For any person moving to Kansas who has been convicted or adjudicated in an out of state court, or who was required to register under an out of state law, the duration of registration shall be the length of time required by the out of state jurisdiction or by the Kansas offender registration act, whichever length of time is longer. The provisions of this subsection shall apply to convictions or adjudications prior to June 1, 2006, and to persons who moved to Kansas prior to June 1, 2006, and to convictions or adjudications on or after June 1, 2006, and to persons who moved to Kansas on or after June 1, 2006.
- (l) For any person residing, maintaining employment or attending school in this state who has been convicted or adjudicated by an out of state court of an offense that is comparable to any crime requiring registration pursuant to the Kansas offender registration act, but who was not required to register in the jurisdiction of conviction or adjudication, the duration of registration shall be the duration required for the comparable offense pursuant to the Kansas offender registration act. The duration of registration shall begin upon establishing residency, beginning employment or beginning school.
- Sec. <u>5.</u> 6. K.S.A. 2012 Supp. 22-4907 is hereby amended to read as follows: 22-4907. (a) Registration as required by the Kansas offender registration act shall consist of a form approved by the Kansas bureau of investigation, which shall include a statement that the requirements provided in this section have been reviewed and explained to the offender, and shall be signed by the offender and, except when such reporting is conducted by certified letter as provided in subsection (b) of K.S.A. 22-4905, and amendments thereto, witnessed by the person registering the offender. Such registration form shall include the following offender information:
 - (1) Name and all alias names;
- (2) date and city, state and country of birth, and any alias dates or places of birth;
- (3) title and statute number of each offense or offenses committed, date of each conviction or adjudication and court case numbers for each conviction or adjudication;

Lyon County Kansas April 17, 2013 1:00-3:00PM

HB 2209-Am. by SC

2.1

- (4) city, county, state or country of conviction or adjudication;
- (5) sex and date of birth or purported age of each victim of all offenses requiring registration;
- (6) current residential address, any anticipated future residence and any temporary lodging information including, but not limited to, address, telephone number and dates of travel for any place in which the offender is staying for seven or more days; and, if transient, the locations where the offender has stayed and frequented since last reporting for registration;
- (7) all telephone numbers at which the offender may be contacted including, but not limited to, all mobile telephone numbers;
 - (8) social security number, and all alias social security numbers;
- (9) identifying characteristics such as race, ethnicity, skin tone, sex, age, height, weight, hair and eye color, scars, tattoos and blood type;
- (10) occupation and name, address or addresses and telephone number of employer or employers, and name of any anticipated employer and place of employment;
- (11) all current driver's licenses or identification cards, including a photocopy of all such driver's licenses or identification cards and their numbers, states of issuance and expiration dates;
- (12) all vehicle information, including the license plate number, registration number and any other identifier and description of any vehicle owned or operated by the offender, or any vehicle the offender regularly drives, either for personal use or in the course of employment, and information concerning the location or locations such vehicle or vehicles are habitually parked or otherwise kept;
- (13) license plate number, registration number or other identifier and description of any aircraft or watercraft owned or operated by the offender, and information concerning the location or locations such aircraft or watercraft are habitually parked, docked or otherwise kept;
 - (14) all professional licenses, designations and certifications;
- (15) documentation of any treatment received for a mental abnormality or personality disorder of the offender; for purposes of documenting the treatment received, registering law enforcement agencies, correctional facility officials, treatment facility officials and courts may rely on information that is readily available to them from existing records and the offender;
 - (16) a photograph or photographs;
 - (17) fingerprints and palm prints;
- (18) any and all schools and satellite schools attended or expected to be attended and the locations of attendance and telephone number;
- (19) any and all: E-mail addresses; online identities used by the offender on the internet; information relating to membership in any and all personal web pages or online social networks; and internet screen names;

Lyon County Kansas April 17, 2013 1:00-3:00PM

(20) all travel and immigration documents; and

HB 2209-Am. by SC

2

22

(21) name and telephone number of the offender's probation, parole

or community corrections officer. 3 (b) (1) The offender shall also provide to the registering law enforcement agency DNA exemplars, unless already on file at the Kansas bureau of investigation provide biological samples for DNA analysis to the registering law enforcement agency as required by K.S.A. 21-2511, and amendments thereto. The biological samples shall be in the form using a DNA databank kit authorized by the Kansas bureau of investigation. The 10 registering law enforcement agency shall forward such biological samples to the Kansas bureau of investigation. Prior to taking such sample, the 11 registering law enforcement agency shall search the Kansas criminal 12 justice information system to determine if such person's DNA profile is 13 14 currently on file. If such person's DNA profile is on file with the Kansas bureau of investigation, the registering law enforcement agency is not 15 required to take biological samples. 16 17 (2) If the exemplars to be taken require the withdrawal of blood, such 18 withdrawal may be performed only by:

- (A) A person licensed to practice medicine or surgery, or a person 19 acting under the supervision of any such licensed person; 20
- (B) a registered nurse or a licensed practical nurse; 21
- 22 (C) any qualified medical technician; or
- 23 (D) a licensed phlebotomist.
- Sec. 6. 7. K.S.A. 2012 Supp. 22-4902, 22-4903, 22-4904, 22-4905, 24
- 22-4906 and 22-4907 are hereby repealed. 25
- Sec. 7. 8. This act shall take effect and be in force from and after its 26 publication in the statute book.